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FISCAL IMPACT STATEMENT

LS 7087 **NOTE PREPARED:** May 14, 2007
BILL NUMBER: SB 287 **BILL AMENDED:** Apr 29, 2007

SUBJECT: Various property tax matters.

FIRST AUTHOR: Sen. Kenley **BILL STATUS:** Enrolled
FIRST SPONSOR: Rep. Kuzman

FUNDS AFFECTED: X GENERAL **IMPACT:** State & Local
DEDICATED
FEDERAL

Summary of Legislation: *Appeals:* This bill adjusts the procedures for administrative and judicial appeal of a property tax assessment or exemption. The bill exempts the Indiana Board of Tax Review (IBTR) from the administrative orders and procedures act with respect to appeals to the Indiana tax court.

Sales Disclosure: The bill revises the procedure for filing and review of sales disclosure forms. It also directs the Legislative Council to assign sales disclosure topics to a study committee.

Property Tax Due Date: This bill delays the property tax due dates if notices of assessment for the immediately preceding year are not issued at least 45 days before May 10 of the year the tax is due.

Appraiser Certification: The bill requires a person to be a certified level two assessor-appraiser to qualify to take office as county assessor or elected township assessor, or to qualify to perform assessment functions as a township trustee-assessor. It allows assessment duties to be transferred from a particular township if for a general election after June 30, 2008, the person elected to the office has not attained the certification of a level two assessor-appraiser. The bill provides that a township trustee-assessor whose assessment duties are transferred to the county assessor retains other trustee duties.

The bill also provides that salary increases for assessors, deputies, and employees who obtain certification as a level two assessor-appraiser apply if the certification was obtained before assuming office or becoming employed by the assessor. It provides that the additional amount a township assessor or employee receives on becoming a certified level two assessor-appraiser is in addition to and not part of the person's annual compensation.

Additionally, the bill creates a level three Indiana assessor-appraiser certification to be administered by the DLGF and it provides that a person who attains a level three certification is eligible for positions and for pay increases for which a level two is eligible.

CVET: The bill repeals an obsolete provision in the Commercial Vehicle Excise Tax (CVET) concerning the filing of information returns in May 2000.

Personal Property Returns: This bill provides that the county assessor shall review and may audit personal property tax returns that are currently reviewed by the DLGF.

Industrial Assessments: The bill allows a county assessor to petition the DLGF to assess an industrial facility.

Industrial Assessment Appeals: The bill provides that an appeal of an assessment of the real property of an industrial facility made by the DLGF is subject to appeal to the Indiana Board of Tax Review (IBTR), and establishes requirements for the findings of the IBTR.

Tax Rates: The bill provides for annual adjustment of maximum property tax rates to account for the change in assessed value of real property that results from an annual adjustment of the assessed value of real property.

Budget and Debt Reporting Deadlines: This bill requires most political subdivisions to adopt a budget by September 30. It also requires political subdivisions to submit financing data to the department by December 31.

Disaster Reassessment: The bill requires the county assessor instead of the DLGF to order the reassessment of property destroyed in a disaster.

Exemption Filing: This bill sets May 15 as the deadline to apply for a property tax exemption.

Abatement Corrections: For the various types of property tax abatement, this bill provides a procedure to correct an understatement of an assessed value deduction that results from an error by the taxpayer by the application of a separate deduction after the regular abatement schedule expires.

Reassessment Fund: This bill provides that an appropriation from the property reassessment fund must be approved by the fiscal body of the county after the review and recommendation of the county assessor.

Late Payment Penalties: The bill provides that the 5% delinquency penalty applies to delinquent property taxes if the taxes are paid within 30 days after the due date and the taxpayer is not liable for delinquent property taxes due in a previous installment (rather than due in a previous year, under current law) for the same parcel.

Levy Excess / Shortfall: This bill provides that, in the case of a civil taxing unit that has a levy excess for a particular year, experienced a shortfall in property tax collections in the preceding year, and did not receive permission to increase its property tax levy to make up the shortfall, the amount the civil taxing unit must transfer to its levy excess fund is reduced by the amount of the civil taxing unit's shortfall in the preceding calendar year.

Abatement Definitions: This bill retroactively amends the definitions of property eligible for certain property tax abatements.

Petition and Remonstrance Process: This bill allows registered voters and owners of real property to participate when a political subdivision conducts a petition and remonstrance process to approve a bond issue or lease rental. (Current law allows only the owners of real property to sign a petition or a remonstrance.) It requires the petitions to be filed with the county voter registration office, rather than the county auditor. It specifies the dates by which an individual must be a registered voter in order to participate in the petition or remonstrance process. It specifies that whenever the name of an individual who signs a petition or remonstrance as a registered voter contains a minor variation from the name of the individual as set forth in the records of the county voter registration office, the signature is presumed to be valid and there is a presumption that the individual is entitled to sign the petition or remonstrance. It specifies that in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under the election law, but provides that an individual is not required to comply with the provisions concerning providing proof of identification. It provides that if a petition is presented to a county voter registration office within 35 days of an election, the county voter registration office may defer acting on the petition until after the election.

Taxpayer Appeals: The bill extends the assessment appeal deadline for a taxpayer that receives a tax statement based on the 2006 assessment.

Assessed Valuation Limits: This bill increases the assessed valuation eligibility limits for certain property tax deductions.

Effective Date: January 1, 2006 (retroactive); January 1, 2007 (retroactive); March 1, 2007 (retroactive); Upon passage; July 1, 2007; January 1, 2008.

Explanation of State Expenditures: *Appeals:* The Administrative Orders and Procedures Act (AOPA) outlines the rules and procedures conducting administrative and judicial reviews for state agencies. Some state agencies are governed by their own statutes and not by AOPA. Under current law, property tax appeals to the IBTR and Indiana Tax Court are governed by both AOPA and specific property tax appeals statutes. Under this proposal, property tax appeals would be governed only by the property tax appeal statutes and AOPA would no longer apply.

Study Committee: This bill directs the Legislative Council to provide for an interim study committee to study Real Property Sales Disclosure. This committee would study ways to improve the efficiency and decrease administrative burden of the sales disclosure program. It would also study the role DLGF plays in the administration of the program. If the Legislative Council chooses to establish an entirely new interim study committee, past expenditures indicate that it might cost about $9,500 per interim for committees with fewer than 16 members. Membership is not specified by this provision.

Appraiser Certification: The DLGF would be required to implement a level 3 assessor-appraiser certification program. This provision could result in the need for additional resources.

Personal Property Returns: Under this provision, the DLGF would no longer be required to perform reviews of personal property returns. Fewer resources would be needed for personal property functions. These resources could be redirected to other DLGF functions.

Industrial Assessments: Under current law, a petition to assess an industrial facility may be filed with the

DLGF (1) by at least 250 real property owners if filed before January 1 of year in which a general reassessment begins; or (2) at any time by the industrial taxpayer. This bill would also permit the county assessor to petition the DLGF to assess the property before January 1 of each year. This provision could result in the need for additional resources if the number of assessments is increased.

Ratio Studies: Beginning in CY 2009, this bill would require only the DLGF to conduct ratio studies required for equalization and annual AV adjustments (trending). The DLGF may require additional resources to implement this function.

Explanation of State Revenues: *Appeals:* Under this proposal, the IBTR would be required to charge a taxpayer for the cost of preparing copies and transcripts transmitted to the Indiana Tax Court if the taxpayer appeals an IBTR determination to the Court. This provision would increase state revenues and help to offset the IBTR's administrative cost for providing the record to the Court.

Assessed Valuation Limits: The state levies a tax rate for State Fair and State Forestry. Any reduction in the assessed value base will reduce the property tax revenue for these two funds. The revenue reduction is estimated at about $1,280 for the increasing the aged deduction assessment limit, $280 for the disabled veteran limit, and zero for the World War I veteran limit. The total revenue reduction will be approximately $1,560.

Explanation of Local Expenditures: *Appeals:* The bill would make several changes in the process to appeal an assessment or exemption action. Among them are changes to informal hearings, county property tax assessment board of appeals (PTABOA) hearings, notice requirements, and hearing deadlines.

Under current law, taxpayers are required to first participate in an informal hearing with the township assessor before they may proceed with a formal appeal. Under this proposal, a taxpayer has the option of asking for an informal hearing. If the taxpayer asks for an informal hearing then the assessor must meet with the taxpayer.

Currently, if there are no unresolved issues after the preliminary conference, then the assessment is changed and the PTABOA is notified, but no hearing takes place in front of the PTABOA. The PTABOA has the right to change the assessment. Under this bill every appeal would result in a hearing before the PTABOA, even if there is agreement between the assessor and taxpayer. The PTABOA may accept or reject the agreement, in whole or in part. This provision could result in an increase in PTABOA hearings.

The PTABOA currently has 90 days in most counties and 180 days in larger counties to conduct a hearing once the petition for appeal has been filed. This proposal would change the time limit to 180 days for all counties.

Sales Disclosure: Under current law, sales disclosure forms are filed with the county auditor and then forwarded to the county assessor. This bill would require taxpayers to submit sales disclosure forms to the county assessor who would immediately review them for accuracy and completeness. The assessor would stamp accurate, complete forms as eligible for filing with the county auditor.

Assessing officials use information currently contained in the sales disclosure form to compute assessments and annual adjustments. Only forms with accurate and complete information are of use. Better sales information will produce more accurate property assessments. Some counties already have an unofficial arrangement between the assessor and auditor for the assessor to check the form before the auditor accepts it. For other counties, additional resources might be necessary to check the forms as they are filed.

Assessment Duties: Under this proposal, for elections held after June 30, 2008, successful candidates for the office of township assessor would have to be certified as a level 2 assessor-appraiser before taking office. If an individual is elected to the office of township assessor or township trustee-assessor but is not certified as a level 2 assessor-appraiser before taking office, then that individual may not perform assessment duties for the length of the term even if that individual subsequently achieves certification. The county assessor would assume the assessment duties of the township assessor or township trustee-assessor. The assessor duties would revert back to the township at a later election where a certified candidate is elected.

Appraiser Certification: Under this proposal, a candidate for county would have to be certified as a level 2 assessor-appraiser in order to run in an election after June 30, 2008.

Under current law, county and township assessors must attain a level 1 certification within one year and a level 2 certification within two years of taking office. County or elected township assessors who fail to get their certifications must forfeit the part of their salary that relates to real property assessment.

The bill also specifies that the additional compensation received by a level two certified assessor or employee is in addition to and not part of regular salary.

Personal Property Returns: Under current law, the township assessor, or their contractor, is required to examine and verify the accuracy of each personal property return and, if appropriate, compare the return the taxpayer's books. Township assessors must forward copies of all personal property tax returns with AV exceeding $150,000 to the county assessor. The county assessor must forward these returns to the DLGF. The DLGF is required to review all returns with an AV of $15,000 or more to determine if any assessments are improper.

Under this provision, county assessors would no longer forward returns to the DLGF and the DLGF would not be required to perform any reviews. This bill would require the county assessor to review the returns over $150,000AV and to determine if any assessments are improper. The county assessor would be permitted to audit the returns. This provision could result in increased expenses for county assessors.

Petition and Remonstrance Process: Under current law, only owners of real property are eligible to participate when a political subdivision conducts a petition and remonstrance process to approve a bond issue or a lease rental. Petitions are filed with county auditor. Under this bill, all property owners and registered voters are eligible to participate in the petition and remonstrance process. Additionally, petitions would be filed with the county voter registration office, rather that with the county auditor. This provision could result in increased expenses for county voter registrations offices and decreased expenses for the county auditors.

Assessed Valuation Limits: Forty-four counties currently provide additional homestead credits that are paid with proceeds from the local option income taxes (LOIT). These credits will decline by approximately $30,000 in CY 2008: $25,000 because of the increase in the assessment limit for senior citizens, $5,000 because of the increase in the assessment limit for disabled veterans, and zero for the increase in World War I veteran limit. LOIT proceeds that are not used for county homestead credits are distributed to civil taxing units as certified shares.

Explanation of Local Revenues: *Tax Rates:* There are several types of property tax levies that are based on a maximum tax rate (i.e. cumulative building funds, etc.) These maximum tax rates are adjusted under current law each time there is a general reassessment to adjust for the AV increase so that the levy does not increase by more than the natural AV growth. Under this bill, beginning with taxes payable in CY 2007, these rates would be adjusted every year to account for the AV increase due to annual adjustments (trending). The resulting tax levies in 2007, therefore, would be the same as the 2006 levies, but with a slight growth amount.

Delays in Property Tax due date: Under current law, property taxes are due in two equal installments, on May 10th and November 10th of the year following the assessment year. The treasurer must send tax bills at least 15 days before they are due. Under this bill, if assessment notices are not sent to taxpayers in the county by March 26th of the year payment is due, taxes originally due on May 10th would not be due until 45 days after the tax bills have been sent out. If the May 10th payment has been delayed, the county treasurer has the option of delaying the November 10th payment up until December 31st of the year payment is due.

There should be no fiscal impact on total revenues collected. However, day to day operational balances could be impacted if tax payments are delayed. Any impact would depend on local action.

Budget and Debt Reporting Deadlines: Under current law, taxing units must supply information regarding bond issues and leases to the DLGF within 20 days of the bond issue or lease execution. Under this bill, taxing units would have until December 31 of a year to forward that information to the DLGF.

This bill also extends by 10 days the deadline fix budgets for most taxing units. The deadline would change from September 20th to September 30th. The deadline provisions should have no fiscal impact.

Disaster Reassessment: Under current law, a taxpayer may petition the DLGF to order a reassessment of destroyed property if a substantial amount of real and personal property is destroyed during a disaster. Under this proposal, the taxpayers would petition the county assessor directly instead of the DLGF. This provision should have no fiscal impact.

Exemption Filing: Exemption applications must currently be filed before May 15 of an assessment year. Under this provision, the applications would have to be filed on or before May 15. This provision would clarify the due date by adding one additional day to the deadline.

Abatement Corrections: Under current law, real property under development, and new manufacturing, research and development, and logistic equipment in an economic revitalization area, may qualify for property tax abatements under abatement schedule from one to ten years.

An error in a taxpayer's abatement deduction claim(s) may affect one or more years in the abatement period. If the error is discovered and corrected during the abatement period it could further reduce the net assessed value in the year it is corrected, leading to a much greater and unexpected shift of the tax burden from abated taxpayers to all taxpayers via an increased tax rate. A correction could also lead to a refund of overpaid taxes which could result on a revenue shortfall for taxing units.

If the error is due to the taxpayer's actions and it results in a smaller deduction than to which the taxpayer is entitled, this bill allows the county auditor to correct the error by applying the deduction in the first assessment after the abatement expires. If the amount of the adjustment is greater than the property's current assessed value, the difference can be carried over to subsequent assessment periods until the error is fully corrected.

As a result, (1) potential shortfalls from refunds for abatement corrections would be eliminated and (2) the tax shift from the correction would not exacerbate any shifts that may occur during the abatement period.

Late Payment Penalties: Under current law, if an installment of real property taxes is not completely paid on or before the due date, a 5% penalty is added to the unpaid portion in the year of the initial delinquency if the if bill is fully paid within 30 days after the due date, and the taxpayer is not liable for delinquent property taxes in a previous year for the same parcel. If the taxpayer fails to meet either condition, the penalty increases to 10%. Under this bill, the 30 day limit is still in effect but the taxpayer must also not be liable for delinquent property taxes for the same parcel in a previous installment rather than in a previous year. Currently, a taxpayer could qualify for the reduced penalty in November if the taxpayer had no delinquent taxes in a prior year even if the May payment from the current year is delinquent. Under this bill, a taxpayer would qualify only if there are no delinquent payments other than for the payment date within 30 days prior.

The bill also extends the smaller 5% penalty to late payment of personal property taxes. To qualify for the 5% penalty, the taxpayer must meet the 30 day limit and must not be liable for delinquent property taxes in a previous installment for property in the same taxing district.

Levy Excess / Shortfall: Under current law, civil taxing units may appeal to the state's Local Government Tax Control Board to exceed their maximum levies to compensate for a shortfall that resulted from erroneous assessed valuation figures being used to calculate tax rates. Also under current law, all property tax collections in excess of a taxing unit's certified levy must be deposited into the unit's levy excess fund. Money in the fund is used to reduce the following year's tax levy.

Under this bill, civil taxing units would retain the part of the levy excess if the unit had a levy shortfall and did not receive approval of a shortfall appeal in the previous year . The civil unit could retain an amount up to the previous year's shortfall and use that money for current year spending. The amount deposited into the levy excess fund, and therefore, the amount of levy reduction in the following year would be reduced by the amount retained. The impact would vary year to year and unit by unit and would depend on the level of property tax delinquencies and their disposition.

Abatement Definitions: Under current law, new or used manufacturing, research and development, and logistic equipment may qualify for property tax abatements. The property, whether new or used, must be acquired in an arms length transaction from an unrelated seller. Under this bill, only property previously used in Indiana will be subject to the arms length sale rule. New or used property that has never been used in Indiana may be acquired in any manner and qualify for an abatement. The impact of this provision on the total number and value of abatements in Indiana is not known.

Assessment Appeal Deadline: Under current law, a taxpayer who wishes to appeal the 2006 Payable 2007 assessment must do so in writing with the county or township within 45 days of the date on which the assessment notice is given, or by May 10th of the assessment year if no assessment notice is given. This bill extends the deadline to file an appeal to the later of July 1, 2007 or 45 days after the tax bill is sent.

Assessed Valuation Limits: There are three residential property tax credits that have a maximum qualifying AV. The annual adjustments (trending) that take effect with taxes payable in 2007 could increase some taxpayers' assessments high enough as to disqualify them for these deductions. This bill increases those maximum qualifying AVs by the estimated statewide average increase in residential assessments.

Under current law, persons 65 or over (senior citizens) or their surviving spouses may receive an AV deduction on their residence equal to one-half the assessed value of the property up to $12,480. In order to qualify, the assessed value of the property may not exceed $144,000 and the adjusted gross income of the taxpayer may not exceed $25,000. This bill would increase the AV limit from $144,000 to $182,430 for property taxes payable in CY 2008 and beyond. The income limit would still be $25,000.

Totally disabled veterans or surviving spouses are entitled to a property tax deduction of $12,480 on their real or personal property. In order to qualify the disabled veteran must be honorably discharged, must either be totally disabled or at least 62 with a disability of 10 percent or more; additionally the assessed value of the property must be less than $113,000. This bill increases the maximum assessed value to $143,160 in CY 2008 and beyond.

WW I veterans may receive a deduction on their principal residence equal to $18,720. In order to qualify, the assessed value of a veteran's home may not exceed $163,000. This bill would increase the assessed value limit to $206,500 in CY 2008 and beyond.

This analysis assumes that all taxpayers who qualify for any of these deductions under current law are currently taking them; it also assumes that all the potentially additional taxpayers covered under this proposal would claim any applicable deductions.

Aged deduction: Estimates derived from income tax data indicate that this proposal will enable an additional 4,285 senior citizens and surviving spouses to claim this deduction in CY 2008. They will pay approximately $756,000 less in taxes for an average net tax reduction of $176 per taxpayer. At a maximum of $12,480 per qualifying senior citizen household, this deduction will potentially reduce the tax base by $53.5 M AV. This reduction in the tax base will cause a shift of property tax burden to all taxpayers in the form of an increase in the statewide average gross tax rate of about $0.00032 in CY 2008.

Disabled Veterans: Using the most current parcel level data and the US Census bureau and extrapolating the results over the disabled veteran population, it is estimated that this proposal will enable an additional 943 disabled veterans to claim this deduction. They will pay approximately $167,000 less in taxes in CY 2008 for an average net tax reduction of $177 per taxpayer. At a maximum of $12,480 per qualifying disabled veteran, this deduction will potentially reduce the tax base by $12 M AV. This reduction in the tax base will cause a shift of property tax burden to all taxpayers in the form of an increase in the statewide average gross tax rate of about $0.00004 in CY 2008.

WW1 Veterans: According Indiana Department of Veterans' Affairs there are no World War I veterans living in Indiana. As a result, there are no additional veterans who will qualify for the deduction under this bill.

Total local revenues, except for cumulative funds, would remain unchanged. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the deduction amount applicable to that fund.

State Agencies Affected: Department of Local Government Finance; Indiana Board of Tax Review; Indiana Attorney General; Indiana Tax Court; Department of Natural Resources; State Fair Board, State Budget Agency; Auditor of State,

Local Agencies Affected: County assessors; County auditors; County councils; County property tax assessment boards of appeal; Elected township assessors; Township trustee-assessors; Local taxing units.

Information Sources: Local Government Database; Bureau of the Census; Indiana Department of Veterans' Affairs.

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